

**Executive Office for Immigration Review (EOIR)  
Board of Immigration Appeals  
Office of the Clerk**

**Standard Operating Procedure (SOP)  
for  
PROTECTIVE ORDER**



**September 2010**

**LIMITED OFFICIAL USE**

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## CHAPTER 1

### OVERVIEW OF PROTECTIVE ORDERS

- 1.0 On May 28, 2002, an interim rule was published that authorized Immigration Judges, upon a motion filed by the Department of Homeland Security (DHS), to issue Protective Orders and seal evidence and any information derived from that evidence where its disclosure would be harmful to law enforcement or national security interests. *See Protective Orders in Immigration Administrative Proceedings*, 67 Fed. Reg. 36799 (May 28, 2002). This interim rule amended 8 CFR §§ 1003.27 and 1003.31 and added a new section 1003.46 to Part 3.
- 1.1 The regulations allow for Protective Orders to ensure that sensitive but unclassified information can be protected from general disclosure while affording use of that information by the respondent, Immigration Judges, the Board of Immigration Appeals (Board), and reviewing courts. The regulation applies to information that may harm national security or law enforcement interests of the United States. **[Note: There may be cases that involve both classified and sensitive information. This Standard Operating Procedure does not provide information for the handling of classified information.]**
- 1.2 Only DHS may file a motion for a Protective Order in immigration proceedings. If an Immigration Judge finds that DHS has established a substantial likelihood that the specific information submitted under seal, if disclosed, would harm the national security or law enforcement interests of the United States, a Protective Order will be issued to ensure that the respondent, his or her attorney or accredited representative, and any witnesses who will need access to the protected information will not disclose the information. Moreover, once a Protective Order is granted, all subsequent portions of the hearing will be closed to the public if the information subject to the protective order may be considered during that hearing. Any submissions to the Immigration Judge or Board referring to the information subject to a protective order are to be filed under seal. A Protective Order issued by an Immigration Judge remains in effect until vacated by the judge. [Note: The Office of the Chief Immigration Judge has issued a Operating Policies and Procedures Memorandum for Protective Orders and the Sealing of Records in Immigration Proceedings (OPPM 09-02).]
- 1.3 As a result, the Board needs to adhere to special procedures to monitor and track cases that involve Protective Orders to ensure that there is no inadvertent release of any information or documents subject to a protective order to the general public.
- 1.4 The following standard operating procedure primarily describes the procedures taken by the Office of the Clerk (“Clerk’s Office”) in processing cases at the Board which involve a Protective Order. Board legal staff should refer to the appropriate Chairman’s Operations Memorandum for further guidance on Panel processing cases with Protective Orders.

## CHAPTER 2

## **DEFINITION**

- 2.0 **Definition:** A Protective Order case for purposes of this Standard Operating Procedure refers to any case before the Board where an Immigration Judge issued a Protective Order or a DHS interlocutory appeal of an Immigration Judge's denial of a motion for Protective Order.
- 2.1 **Receipt of Protective Order Cases:** The Immigration Court should follow the procedures described in OPPM 09-02 when a Protective Order has been issued. As a result, information subject to the Protective Order should be enclosed in a yellow, clasp-file envelope and be accompanied by a transmittal sheet completed by the Immigration Court. A separate ROP may contain the information subject to the Protective Order. Additionally, the Immigration Judge may have segregated the hearing tapes/CDs related to portions of the closed proceedings.
- 2.2 Generally, the Board will see cases that involve Protective Orders in the following scenarios:
- 2.2 (a) **Case Appeal:** The DHS or the respondent may file an appeal of an Immigration Judge's final order in removal or bond proceedings that involve evidence or information subject to a Protective Order issued under 8 CFR § 1003.46. The respondent may appeal the issuance of a Protective Order only in conjunction with an appeal of the Immigration Judge's final decision resolving all issues of deportability and applications of relief. 8 C.F.R. § 1004.46(f)(4).
- 2.2 (b) **Motion:** The DHS or the respondent may file a motion with the Board in a case where a Protective Order has been issued by the Immigration Judge and the order remains in effect.
- 2.2 (c) **DHS Interlocutory Appeal:** Only the DHS may file an interlocutory appeal of an Immigration Judge's decision denying a motion for a Protective Order. By regulation, the proceedings below are stayed pending a decision on the interlocutory appeal. 8 C.F.R. § 1003.46(e).
- 2.2 (d) **Federal Court Remand:** A Federal Court Remand may be received by the Board in a case where a Protective Order has been issued by the Immigration Judge and the order remains in effect.

## CHAPTER 3

### **CLERK'S OFFICE STEPS TO PROCESS AN INTERLOCUTORY APPEAL OF THE DENIAL OF A MOTION FOR A PROTECTIVE ORDER**

#### **3.0 Entering an Interlocutory Appeal of the Denial of a Motion for a Protective Order**

- 3.0 (a) The Appeals Examiner will enter the Interlocutory Appeal in accordance with the established procedures. *See Clerk's Office Guidelines for entering an appeal in CASE.*
- 3.0 (b) If the Appeals Examiner receives a Warning Screen in CASE when entering the Interlocutory Appeal that indicates that the Immigration Judge has denied a Protective Order in this case, the Appeals Examiner will confer with the Program Analyst, who is responsible for monitoring Protective Order cases at the Board, prior to entering the Interlocutory Appeal and issuing a Filing Receipt with the Protective Order Language incorporated on it. *See Exhibit #1 - Warning Screen.*
- 3.0 (b)(1) The Program Analyst will prepare the drop file and scan it to herself. The drop file is a manila folder that holds the Interlocutory Appeal, the Board's Notice(s), all correspondence, forms, all emails, flags, and other in-house communications.
- 3.0 (c) When the Notice of Appeal, EOIR-26, has been received by the Clerk's Office, an email will be sent by the Program Analyst to the respective Court Administrator, with a "cc" to the Chief Clerk, Senior Legal Advisor, Deputy Chief Clerks, and the indigenous Team Leader, notifying them of the receipt of the Interlocutory Appeal from the Protective Order denial. The Program Analyst will provide in the email the A-number, alien's name, and date appeal received.
- 3.0 (d) If the DHS files a sealed annex, while pursuing an appeal of the IJ's denial of the motion for a Protective Order, the information in the sealed annex will only be considered for purposes of deciding the appeal from the Denial of a Motion for a Protective Order. The appeal will be entered in accordance with the established procedures, **but** Board personnel will not provide the sensitive information in the sealed annex to the respondent or his attorney or accredited representative as a protective order has not yet been issued. *See 8 CFR §§ 1003.46(3), (c).*
- 3.0 (e) The Program Analyst will post notes in the CASE database system under the COMMENTS section that **ALL CORRESPONDENCE** relating to

Protective Order subject matter, A# XXX-XXX-XXX at hand is to be forwarded to the Program Analyst for further processing.

3.1 **Receipt of the Record of Proceeding(s) from the Immigration Court**

- 3.1 (a) The mail room staff will receive and date-stamp the upper right-hand corner of the record of proceedings(s) ROP(s).
- 3.1 (b) The mail room staff will follow the guidelines set forth in the Standard Operating Procedures (SOP) for Receiving ROPs. *See Clerk's Office Guidelines for Receiving ROPs.*
- 3.1 (c) Receive and bar code ROP(s) in accordance with established procedures. *See Clerk's Office Guidelines for Bar Coding ROP(s).*
- 3.1 (d) The Receiver will enter the ROP(s) received date, number of files, and bar code the file(s) and tape bag(s), or CD(s) and scan the ROP(s) to the Program Analyst utilizing the appropriate Functional Level and Responsible Party.
- 3.1 (e) The ROP(s) will be delivered to the Program Analyst.
- 3.1 (f) The Program Analyst is responsible for verifying that the ROP(s) have been received correctly and that the ROP(s) have been properly bar coded.
- 3.1 (g) Any discrepancy with ROP(s) bar coding should be rectified by creating a new bar code.
- 3.1 (h) When the ROP(s) is received from the Immigration Court, it is likely that the file will not contain information relating to the motion for a protective order, as the Court Administrator should have immediately returned the sealed annex, if any, to the DHS Counsel upon the Immigration Judge's denial of the Motion for a Protective Order.
- 3.1 (i) Match the Interlocutory Appeal with the ROP(s). If the sensitive information is not contained within the ROP, it may be attached to the Notice of Appeal. Therefore, the Program Analyst should properly mark the file to indicate that the information within should not be disclosed.

3.2 **Briefing Schedule for an Interlocutory Appeal**

- 3.2 (a) Briefing schedules are not typically set for both parties for an Interlocutory Appeal; however, it's the Board's discretion to administer a briefing schedule.
- 3.2 (b) Tapes and/or CD's are not usually transcribed, but the Board, at their discretion, may elect to transcribe them.

- 3.2 (c) Administration of a briefing schedule shall be ascertained by the Senior Legal Advisor who will consult with Panel Board Members.
- 3.2 (d) If the Board requests that the briefing schedule be set, the Program Analyst will follow the established procedures for setting a briefing schedule and utilize the specific Protective Order Briefing Schedule Notice. ***See Section 4.4.; see also Exhibit #7 - Briefing Schedule Notice for Interlocutory Appeal from the denial of a Motion of a Protective Order.***

## CHAPTER 4

### **CLERK'S OFFICE STEPS TO PROCESS AN APPEAL WHERE A PROTECTIVE ORDER WAS GRANTED**

- 4.0 The Clerk's Office steps to process an appeal in a case where a Protective Order was granted includes those case types such as, but not limited to, Case Appeal, Bond Appeal, or IJ MTR Appeal.
- 4.1 **Entering the Appeal**
- 4.1 (a) The Appeals Examiner will enter the Appeal in accordance with the established procedures. *See Clerk's Office Guidelines for entering an appeal in CASE.*
- 4.1 (b) If the Appeals Examiner receives a Warning Screen in CASE when entering the Appeal that indicates that the Immigration Judge has granted a Protective Order in this case, the Appeals Examiner will confer with the Program Analyst, who is responsible for monitoring Protective Order cases at the Board, prior to entering the Appeal and issuing a Filing Receipt with the Protective Order Language incorporated on it. *See Exhibit #1 - Warning Screen; See also Exhibit #4 - Filing Receipt for an Appeal with Protective Order Language.*
- 4.1 (b)(1) The Program Analyst will prepare the drop file and scan it to their location. The drop file is a manila folder that holds the Appeal, the Board's Notice(s), all correspondence, forms, all emails, flags, and other in-house communications.
- 4.1 (c) When the Notice of Appeal, EOIR-26, has been received by the Clerk's Office, an email will be sent by the Program Analyst to the respective Court Administrator, with a cc to the Chief Clerk, Senior Legal Advisor, Deputy Chief Clerks, and the indigenous Team Leader, notifying them of the receipt of the appeal in which the Protective Order was issued. The Program Analyst will provide in the email the A-number, alien's name, and date received.
- 4.1 (d) The Program Analyst will post notes in the CASE database system under the COMMENTS section that **ALL CORRESPONDENCE** relating to Protective Order subject matter, A# XXX-XXX-XXX at hand is to be forwarded to the Program Analyst for further processing.
- 4.1 (e) The Program Analyst will verify that the Protective Order is intact and not vacated or modified by the Immigration Judge.



#### 4.2 **Receipt of the Record of Proceeding(s) from the Immigration Court**

- 4.2 (a) The Immigration Court personnel should send an e-mail to the Chief Clerk at the Board, informing the Board that the ROP contains information subject to a Protective Order along with the tracking number invoice. Subsequently, the Program Analyst will be responsible for tracking and retrieving the ROP upon receipt after the mail room staff has followed the appropriate procedures as designated below.
- 4.2 (b) The mail room staff will receive and date-stamp the upper right-hand corner of the record of proceedings(s) ROP(s).
- 4.2 (c) The mail room staff will follow the guidelines set forth in the Standard Operating Procedures (SOP) for Receiving ROPs. *See Clerk's Office Guidelines for Receiving ROPs.*
- 4.2 (d) Receive and bar code ROP(s) in accordance with established procedures. *See Clerk's Office Guidelines for Bar Coding ROP(s).*
- 4.2 (e) The Receiver will enter the ROP(s) received date, number of files, and bar code the file(s) and tape bag(s), or CD(s) and scan the ROP(s) to Functional Level - Program Staff and Responsible Party.
- 4.2 (f) The ROP(s) will be delivered to the Program Analyst.
- 4.2 (g) The Program Analyst is responsible for verifying that the ROP(s) have been received correctly and that the ROP(s) have been properly bar coded.
- 4.2 (h) Any discrepancy with ROP(s) bar coding should be rectified by creating a new bar code.
- 4.2 (i) When the ROP(s) is received from the Immigration Court, one or more of the ROPS may be stamped to indicate that the documents within are subject to a Protective Order issued by the Immigration Judge.
- 4.2 (j) Each individual ROP(s) should have the Protective Order notice sheet placed inside on the right-hand side on top of all other documentation placed within the record of proceeding. This Notice sheet indicates that information about this case is not to be disclosed. The document should not be removed unless the Protective Order has been vacated by the Immigration Judge. *See Exhibit #3 - Protective Order Notice Sheet within each ROP.*
- 4.2 (k) Match the Appeal with the ROP(s).

#### 4.3 **Transcription Process and Digital Audio Recording**

- 4.3 (a) Note: Transcripts are not usually prepared in IJ MTR Appeals or Bond Appeals, but are prepared in Case Appeals.
- 4.3 (b) The Program Analyst will retrieve the tape bag(s) from or burn CD's for Digital Audio Recording for the Record of Proceeding(s). Where the Immigration Court has segregated the closed portions of the hearing tapes/CDs or the Immigration Judge's decision, the Board will maintain that segregation when sending the tapes/CDs to the Transcription Company.
- 4.3 (c) The Program Analyst will attach the Warning Note for the Transcription Company on the tape bag and place another copy of the warning inside of the tape bag that contains segregated tapes/CDs. *See Exhibit #5 - Warning Note for Transcription Company with Protective Order Language.*
- 4.3 (d) If it is not apparent which tape/CD, if any, contains closed portions of the hearing, attach the warning note to the tape bag containing all tapes, and place a copy of the warning note inside the tape bag to the transcriber that he or she must not disclose information.
- 4.3 (e) Send tapes/CDs to the Transcription Company to have them transcribed allocating a **5-day turnaround**.
- 4.3 (f) Upon receipt of the transcript and oral decision from the Transcription Company, the Program Analyst will verify the transcripts and oral decision for accuracy to ensure there are no defects.
- 4.3 (g) If the transcript is defective, the Program Analyst will repeat the steps for sending the tapes/CDs and have them re-transcribed.
- 4.3 (h) If the Transcripts, and Oral Decision are correct, the Program Analyst will place them within the Record of Proceeding.

#### 4.4 **Briefing Schedules**

- 4.4 (a) The Program Analyst will set the Briefing Schedule for both parties. A specific Protective Order Briefing Schedule Notice incorporating the Protective Order language will be sent to both parties. *See Exhibit #6 - Briefing Schedule Notice with Protective Order Language.*
- 4.4 (b) If a transcript or oral decision has been prepared in the case, the portions of the closed hearing transcript shall be placed in the yellow Protective Order envelope before sending the transcripts and briefing schedules to the parties and placing the original in the ROP.

- 4.4 (c) When sending the briefing schedules and transcripts to the parties, the Program Analyst will also provide a yellow envelope to each party for the return of their respective briefs should they opt to keep it sealed.

4.5 **Extensions for Briefing Schedule**

- 4.5 (a) If an extension is received, the Program Analyst will handle the extension in accordance with established procedures. *See Clerk's Office Guidelines for Entering Briefing Extensions.*
- 4.5 (b) If the Briefing Extension is to be granted and or denied, the Program Analyst will generate the grant or denial with the Protective Order language and send to the appropriate parties. *See Exhibit #7 - Briefing Schedule Grant Notice with Protective Order language; See Exhibit #8 - Briefing Schedule Denial Notice with Protective Order language.*

4.6 **Receiving/Rejecting Briefs**

- 4.6 (a) The Program Analyst will receive or reject briefs in accordance with established procedure. *See Clerk's Office Guidelines for Receiving/Rejecting Briefs .*
- 4.6 (b) If the brief is received and submitted to the Board inside of the yellow envelope, the brief should remain inside of the yellow envelope and placed immediately into the ROP.
- 4.6 (c) If the brief is received and submitted to the Board without the yellow envelope, simply place the brief within the ROP.
- 4.6 (d) If the brief is rejected, seal the brief inside of the yellow envelope and return it to the filing party. The respective party is allocated 15 days from the date of the mailing of the rejection notice with the designated Protective Order language. *See Exhibit #9 - Briefing Schedule Rejection Notice with Protective Order Language.*

4.7 **Clerk's Office Final Processing Steps**

- 4.7 (a) *See Chapter 6* for the conclusion of the Clerk's Office Processing Steps.

## CHAPTER 5

### **CLERK'S OFFICE STEPS TO PROCESS MOTIONS AND FEDERAL COURT REMANDS THAT CONTAIN INFORMATION THAT IS SUBJECT TO A PROTECTIVE ORDER**

#### **5.0 Entering the Motion and or Federal Court Remand**

- 5.0 (a) The Appeals Examiner will enter the Motion or Federal Court Remand in accordance with the established procedures. *See Clerk's Office Guidelines for Entering a Motion into CASE; see also Clerk's Office Guidelines for Entering a Federal Court Remand into CASE.*
- 5.0 (b) If the Appeals Examiner receives a Warning Screen in CASE when entering the Motion or Federal Court Remand that indicates that the Immigration Judge has granted a Protective Order in this case, the Appeals Examiner will confer with the Program Analyst, who is responsible for monitoring Protective Order cases at the Board, in conjunction with the Federal Court Remand Coordinator (if involving a Federal Court Remand), prior to entering the Motion or Federal Court Remand and issuing a Filing Receipt with the Protective Order Language incorporated on it. *See Exhibit #1 - Warning Screen; see also Exhibit #10 Filing Receipt for Motion or Federal Court Remand with Protective Order Language.*
- 5.0 (b)(1) The Program Analyst will prepare the drop file and scan it to their location. The drop file is a manila folder that holds the Case Appeal, the Board's Notice(s), all correspondence, forms, all emails, flags, and other in-house communications.
- 5.0 (c) When the Motion or Federal Court Remand has been received by the Office of the Chief Clerk, an email will be sent by the Program Analyst to the respective Court Administrator, with a cc to the Chief Clerk, Senior Legal Advisor, Deputy Chief Clerks, the Federal Court Remand Coordinator (if involving a Federal Court Remand), and the indigenous Team Leader, notifying them of the receipt of the Motion or Federal Court Remand that is subject to a Protective Order. The Program Analyst will provide in the email the A-number, alien's name, and date received.
- 5.0 (d) The Program Analyst will post notes in the CASE database system under the "Comments" section that **ALL CORRESPONDENCE** relating to Protective Order subject matter, A# XXX-XXX-XXX at hand is to be forwarded to the Program Analyst for further processing.
- 5.0 (e) The Program Analyst will verify that the Protective Order is intact and not vacated or modified by the Immigration Judge.

## 5.1 **Receipt of the Record of Proceeding (ROP) from the Immigration Court**

- 5.1 (a) The Immigration Court personnel should send an e-mail to the Chief Clerk at the Board, informing the Board that the ROP contains information subject to a protective order along with the tracking number invoice. Subsequently, the Program Analyst will be responsible for tracking and retrieving the ROP upon receipt after the mail room staff has followed the appropriate procedures as designated below.
- 5.1(b) The mail room staff will receive and date-stamp the upper right-hand corner of the ROP.
- 5.1 (c) The mail room staff will follow the guidelines set forth in the SOP for Receiving ROPs. *See Clerk's Office Guidelines for Receiving ROPs*
- 5.1 (d) Receive and bar code ROP(s) in accordance with established procedures. *See Clerk's Office Guidelines for Bar Coding ROP(s).*
- 5.1 (e) The Receiver will enter the ROP(s) received date, number of files, and bar code the file(s) and tape bag(s), or CD(s) and scan the ROP(s) to Functional Level - Program Staff and Responsible Party.
- 5.1 (f) The ROP(s) will be delivered to the Program Analyst.
- 5.1 (g) The Program Analyst is responsible for verifying that the ROP(s) have been received correctly and that the ROP(s) have been properly bar coded.
- 5.1 (h) Any discrepancy with ROP(s) bar coding should be rectified by creating a new bar code.
- 5.1 (i) When the ROP(s) is received from the Immigration Court, one or more of the ROPS may be stamped to indicate that the documents within are subject to a Protective Order issued by the Immigration Judge.
- 5.1 (j) Each individual ROP(s) should have the Protective Order notice sheet placed inside on the right-hand side on top of all other documentation placed within the record of proceeding. This Notice sheet indicates that information about this case is not to be disclosed. The document should not be removed unless the Protective Order has been vacated by the Immigration Judge. *See Exhibit #3 - Protective Order Notice Sheet within each ROP.*
- 5.1 (k) Match the Motion or Federal Court Remand with the ROP(s).
- 5.1 (l) Hold the ROP(s) for 21 days to allow for receipt of any correspondence by either party.

5.2 **Clerk's Office Final Processing Steps**

5.2 (a) *See Chapter 6* for the conclusion of the Clerk's Office Processing Steps.

## CHAPTER 6

### **CLERK'S OFFICE FINAL PROCESSING STEPS**

#### **6.0 Log-In**

- 6.1 (a) The Program Analyst, who is responsible for monitoring Protective Order cases at the Board, will pull the ROP(s) for review and log-in the case. With respect to IJ MTR Appeals, Bond Appeals and Case Appeals, when both sets of briefs have been received on time, or the briefing schedule has expired, the Program Analyst will at this stage pull the ROP(s) for review and subsequently log-in the case.
- 6.1 (b) The Program Analyst will re-screen the ROP(s), enter in the log-in dates in CASE, through the Appeals Tab by Editing the Docket information with the "Docket Date", "To Screening Date", and "Received by Docket" dates and double click on the selected issue(s) related to the case at hand under the "Issues List" column.
- 6.1 (c) The Program Analyst will prepare an issue sheet identifying the salient issues and noting the Fiscal Year that the appeal was filed pertaining to the Protective Order case and staple the issue sheet on top of the ROP.
- 6.1 (d) The Program Analyst will make a notation in CASE Suspense that: "This is a Protective Order Case to be reviewed by Senior Legal Advisor and by the Federal Court Remand Coordinator (if involving a Federal Court Remand), prior to attorney assignment."
- 6.1 (e) The Program Analyst will scan the Protective Order case to the Senior Legal Advisor, or the Federal Court Remand Coordinator (if involving a Federal Court Remand), for further case processing.
- 6.1 (f) The Senior Legal Advisor, or the Federal Court Remand Coordinator (if involving a Federal Court Remand), will subsequently coordinate with the Senior Panel Attorneys regarding case assignment for adjudication.

#### **6.2 Case Assignment and Final Adjudication**

- 6.2 (a) Once the Protective Order case is assigned to a staff attorney, the Program Analyst will check the CASE database system on a daily basis to monitor, and track the case throughout the adjudication process.
- 6.2 (b) When the case has been signed, the Board Member Legal Assistants will notify (via email) the Senior Panel Attorney, Chief Clerk, Senior Legal Advisor, the Federal Court Remand Coordinator (if involving a Federal Court Remand), and Program Analyst. The Legal Assistant will hand carry the Protective Order case to the Senior Legal Advisor.

6.2 (c) The Senior Legal Advisor will review the case for administrative purposes before it is issued by the Docket Team, and will apprise the Chairman of the pending issuance of a decision. High Profile memorandum(s), if any, will be collected by the Senior Legal Advisor and forwarded to the appropriate individuals for processing.

6.2 (d) Upon final processing review by the Senior Legal Advisor, the Program Analyst or the Senior Legal Advisor will hand carry the Protective Order Case to the Docket Team Leader, or the Acting Team Leader.

### 6.3 **Docket Instructions**

6.3 (a) The Docket Team Leader, will break-down the Protective Order case after a decision has been rendered by a Board attorney and ***will not segregate*** the decision into open and closed portions unless the Immigration Judge segregated portions of the record or as directed by the Chairman and/or Vice-Chairman.

6.3 (b) The Docket Team Leader will then proceed to generate the standard transmittal sent to all parties involved, incorporating the general Protective Order warning. ***See Exhibit #11 - Transmittal Notice with Protective Order Language.***

6.3 (c) The Docket Team Leader will process the case and hand carry a copy of the decision to the Chief Clerk, and provide a copy of the decision and transmittal letter to the Senior Legal Advisor. The Library copy consisting of the Immigration Judge's Oral Decision and the Board's decision will be forwarded to Program Analyst.

6.3 (d) Interlocutory Appeal ROP(s) involving a Protective Order should be forwarded to the Management Program Analyst. ***See Section 6.6***

### 6.4 **Instructions for Posting on the Intranet**

Once the signed Board decision is ready to be posted to the Intranet, the Clerk's Office staff will be provided a Protective Order Cover Sheet to ensure that proper scanning measures are taken according to procedure, and will then proceed to scan only the Protective Order Cover Sheet identifying that a Protective Order decision has been rendered. ***See Exhibit # 13 - Cover Sheet for Protective Order; see Clerk's Office Guidelines for Scanning a Decision.***

### 6.5 **Library Instructions**

Once a case has been signed, an email is sent to Librarian to advise her that the Board decision is subjective to a Protective Order and needs to be **segregated and not be made available to the public.**



## 6.6 **Instructions on Handling Interlocutory Appeals**

- 6.6 (a) If the Board's decision on an Interlocutory Appeal of the Denial of a Motion for a Protective Order is rendered as "Dismissed" **and** there is a sealed annex, the Program Analyst will return the sealed annex to the DHS, and will also return the ROP(s) to the Immigration Court.
- 6.6 (b) If the Board's decision sustains the DHS appeal in an Interlocutory Appeal of the Denial of a Motion for a Protective Order and finds that the Protective Order should be issued, the Program Analyst will return the Record of Proceedings and the sealed annex to the Court Administrator. The Program Analyst is also responsible for implementing tracking measures to ensure delivery of the ROP(s).

## CHAPTER 7

### **PROGRAM ANALYST ROLE IN PROCESSING A PROTECTIVE ORDER**

- 7.0 The Program Analyst, who is responsible for monitoring Protective Order cases at the Board, is responsible for routinely tracking, retrieving and generating Protective Order reports providing analysis utilizing the case management database systems so that a Protective Order case is accurately identified before it arrives at the Board.
- 7.1 The Program Analyst is responsible for generating the case management database system at the beginning of each month to monitor and track any new activity and report any findings to Senior Legal Advisor, and Chief Clerk, via email. The Program Analyst will consult with DHS to determine if any individuals were deported.
- 7.1(a) The Monthly Status Report for Protective Orders sent via email to the above-mentioned individuals will distinguish between the following cases: Pending Cases, Cases being monitored, Cases that were remanded, and deported individuals, individuals with voluntary departure, and the remainder of cases that do not have appeals or motions filed at the Board.
- 7.2 The Program Analyst is responsible for generating the case management database system on a weekly basis to monitor whether any new appeal or motion has been filed on those individuals listed (not deported) on the Protective Order Report.
- 7.2(a) The Program Analyst will ensure that the case management database system generates a protective order warning screen. If the protective order warning screen is not generated in the case management database system, the Program Analyst will contact the appropriate individual at IRM.
- 7.3 The Program Analyst will utilize and maintain a binder which incorporates a hard copy of the following reference materials:
- ✓ Protective Order Weekly Tracking Log
  - ✓ Monthly Status Report - sent via email to the Chief Clerk, Executive Officer and Senior Legal Advisor
  - ✓ Protective Order Report
  - ✓ Signed copy of Protective Order Cases
- 7.4 The Program Analyst is the gatekeeper for all pre- and post-Clerk's Office case flow management processes for all Protective Orders involving Case Appeals, Motions, Interlocutory Appeals, and Federal Court Remands.

- 7.5 The Program Analyst will ensure that proper protocol and measures are taken when a purported Protective Order has been filed and there is no evidence of documentation validating that the matter is a true Protective Order.
- 7.6 The Program Analyst will verify that the case management database system generates a protective order warning screen.
  - 7.6(a) If the protective order warning screen is not generated in case management database system, the Program Analyst will review the drop file to ascertain whether the documents contain information related to a Protective Order.
  - 7.6(b) The Program Analyst will review the drop file to ascertain whether or not there are any sealed annexes filed to determine whether or not there is a Protective Order.
- 7.7 When the Notice of Appeal, EOIR-26, has been received by the Office of the Chief Clerk, an email will be sent by the Program Analyst to the respective Court Administrator, with a “cc” to the Chief Clerk, Senior Legal Advisor, Deputy Chief Clerks, and the indigenous Team Leader, requesting verification whether or not a Protective Order has been granted in the subject matter case. The Program Analyst will provide in the email the A-number, Alien’s name, and date received.
- 7.8 The Clerk’s Office Front Window staff will forward any filings submitted to them pursuant to a Protective Order to the Program Analyst. The Program Analyst will ensure that the proper protocol is followed in determining whether or not the subject matter involves a Protective Order. *See Section 7.6.*

## CHAPTER 8

### **REPORTS, ANALYSIS, AND DATA ELEMENTS**

(Future Insertion)